**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.3682 OF 2007
WITH
SUMMARY SUIT NO.2036 OF 1990

Bank of Maharashtra. ..Plaintiffs.

V/s.

Prithviraj Ratanchand Mehta & Anr. ..Defendants.

Ms.Anjali Risbud for Plaintiffs.

Ms.V.J.Tamhane i/b. R.D.Suvarna for Defendant No.2.

**CORAM: A.M.KHANWILKAR,J**

**DATE : OCTOBER 3, 2007.**

**P.C. :**

1. This Motion is vehemently opposed by the Counsel for the Plaintiffs. In my opinion, having regard to the assertions made in the affidavit of Defendant No.2 as well as affidavit of R.D.Suvarna, Advocate on record, filed in support of the Motion, as there is no reason to doubt the correctness of the said statements, I am inclined to show indulgence to the Defendant No.2, on condition that the Defendant No.2 shall pay costs to the Plaintiffs quantified at Rs.5,000/- within one week from today. This indulgence is shown, as the litigant should not suffer for the mistake of the advocate. It is however, made clear that payment of costs is

condition precedent for taking Written Statement of the Defendant No.2 on record.

2. Counsel for the Defendant No.2 on instruction of the Defendant No.2, who is present in the Court assures to pay the amount of costs to the Plaintiffs within specified time and produce acknowledgement thereof in the Registry within such time. That assurance is accepted.

3. Notice of Motion is made absolute in terms of prayer clause (a) and (b) on the above terms.

4. In so far as Suit is concerned, the same be placed on 22nd October, 2007 under caption "for filing affidavit of evidence and documents".

**(A.M.KHANWILKAR,J)**